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**OPPOSITION MOUNTS AS CONSERVATIVE GOVERNMENT  
PUSHES AHEAD WITH LEGISLATION IMMUNIZING NEGLIGENT  
CONDUCT IN LONG TERM CARE HOMES**

The Conservative government appears to be determined to pass Bill 218 with lightening speed. This legislation would deprive thousands of long term care residents and their families from having the long term care facility held accountable and responsible for their negligence.

Bill 218 which was introduced to the Legislature in mid-October has now gone through second reading and the Standing Committee on Justice Policy held hearings on the proposed legislation on Wednesday, November 4, 2020. There were 58 groups which sought to obtain standing to make a presentation to the Standing Committee and only 15 groups were accepted.

Gary Will, Managing Partner of Will Davidson LLP, who was permitted to make a presentation asked the Standing Committee to set aside additional days to hear further submissions from family members who had lost loved ones in long term care facilities. While this suggestion was met favourably by the Official Opposition, the Conservative government seems determined to push ahead with passage of this legislation as quickly as possible. There are no further scheduled hearings for the public to present their views. In addition, there was no opportunity for members of the public to view the proceedings which was highly unusual. Gary Will informed the Standing Committee on Justice Policy that many of his clients would have liked to view the Committee proceedings on November 4<sup>th</sup> which was not possible. Some of the other parties making presentations requested a videotape of the proceedings were told by the government that there was no video recording available. The media had no way to view the proceedings.

Gary Will had the following to say at the hearing before the Standing Committee on Justice Policy:

“Long term care homes and retirement homes are meant to provide care to the most vulnerable members of our population. Many of these individuals are significantly disabled mentally and physically and are entirely dependent on their care givers for their quality of their daily care. The impact of the pandemic has been devastating to the residents of long term care and retirement homes. Over 65% of the deaths, more than 2,000, have occurred in long term care and retirement homes. Many of these deaths were preventable.”

He went on in his submissions as follows:

“We currently represent over 2,000 residents and their families in 9 long term care homes. Of those, 711 residents were infected with

Covid-19 and 261 died. So what do these families want? First they want to know what happened to their loved ones. They want there to be accountability and responsibility taken for what has occurred. Finally, they want to ensure that this never happens to anyone else in the future.”

Mr. Will went on to explain what the legislation will do:

“There will be no responsibility and accountability for negligent conduct. Long term care homes can act unreasonably provided they make an honest effort. A long term care corporation that earns over a billion dollars in revenues can act negligently and there will be zero consequences. Bill 218 bars claims for negligence and all existing actions are deemed dismissed without costs. For those individuals who are unable to prove gross negligence this means that there will be no accountability and responsibility and no answers. There will be no compensation for any of these residents or their families.”

Mr. Will went on to explain what passage of Bill 218 might mean for future residents and their families and the care that they could expect to find in their homes in future months:

“We are now in the second wave and there may be a third wave in 2021. The care of these residents will not be better. It will likely be worse. Extendicare which has earned over a billion dollars in revenues in each of the last three years, can increase its profits in the next two years by reducing the level of care in their homes. They can do so secure in the knowledge that their negligent actions will be immunized. The decisions that they make which affect quality of care can be unreasonable as long as they are honest and they will never be held accountable in any court of law. Again, our elderly vulnerable population will bear the brunt of those future decisions. There will be more infections, not less. There will be more deaths, not less. No one in Ontario wants that. If we want to improve the quality of care for our elderly vulnerable population, there needs to be an exemption and Bill 218 should not apply to long term care and retirement homes.”

We have asked some of our clients for their personal stories and their comments about Bill 218.

Annie Whyton, who lost her mother Angela Skrilec at the Orchard Villa Home on May 12, 2020, had the following to say about her mother:

“My mom resided at Orchard Villa and was sent to the hospital on May 6, 2020 as she was not feeling well. On May 10, 2020 (Mother’s Day) I learned from the hospital that my mom was Covid

positive and it was doubtful she would recover. On May 12, 2020 my mother passed away. Our family mourns her loss and struggles with guilt that we unwittingly entrusted Orchard Villa to care for her and keep her safe. It was far from her time to go, and her death was a needless and avoidable loss.”



Angela Skrilec

Annie Whyton had the following to say about Bill 218:

“We live in a society governed by laws and rules. If we follow them, there's no consequences, but if we don't .... there are. We have a legal system that allows us to advocate for our rights and beliefs and to make claims against others for wrong-doing.

The passing Bill 218 is acknowledging that it is permissible for Orchard Villa (and other LTC facilities involved in actions) to break rules and not be punished or be held accountable for their wrong-doing. By demanding accountability, we will be the voice to implement change in order to make LTC living safe.

Please also ask yourself one question. ‘What if it was my parent who died of Covid in one of these facilities?’”

Trung Do described his father, Minh Quoc Do, and his passing in the following terms:

“I am the son of Minh Quoc Do, a deceased resident inside Erin Mills Lodge in Mississauga. My father died because of complications from Covid19. He died because the home did not take the virus seriously. He died because the group running the homes failed to provide necessary safety measures to ensure the

safety of staff and the vulnerable residents in their care. He died because of negligence period. Like a parent of a minor that was not able to provide the necessities of life. Like a parent leaving a child unattended causing death or injury. Like a business allowing a patron too many drinks and letting them drive home. Like how a car manufacturer taking short cuts in safety and causing accidents. How is it that the publicly funded homes have very few or no cases at all? I worked part time delivering to dozens of these homes during the peak of the first wave...and NONE of them had any cases at all! The screening, the masks, the gowns, were they being done at these homes with breakouts? I doubt it.

I miss my dad, I'm sad for my mom missing my dad, the entire family and extended family of son's, daughter, sister, mother-in-law, grand kids, great grand kids, friends, we all miss him. It wasn't his time and someone has to be responsible, COVID is the swimming pool, the child was my dad, and the ones watching my dad is ultimately responsible for his death.”



Minh Quoc Do

Trung Do had the following to say about what it would mean to pass Bill 218:

“Please, if you pass this Bill, then no one will be accountable and it will set a precedent for other "businesses" to get away with murder. By allowing accountability, you are allowing those who made mistakes to rectify them and change for the better of future populations that will require care.”

Kimberly Furtado lost both her grandparents, Mary and Louis Furtado, at the Orchard Villa facility. She described her grandparents as follows:

“My grandparents, Mary and Louis both resided at Orchard Villa, but they were separated from each other as there was no room in which they could be together.

My grandfather passed away first on April 10, 2020 due to Covid symptoms in his room by himself and all alone. Ten days later my grandmother died because of a broken heart and with covid symptoms.

Covid has effected our family as we no longer have our loved ones with us. Dealing with the loss of our loved ones was hard, and having the government send out the military to assist at Orchard Villa confirmed that our family members suffered unbearable conditions and neglect.”



Mary and Louis Furtado

Kimberly Furtado had the following to say in opposition to Bill 218:

“Please do not pass this bill. Someone needs to be accountable for the loss and suffering of so many. Our families deserve justice, I am sure if you lost a family member the way we did you would feel the same.”

Kara Ferreira lost her mother Elsie Arthur who died at the Holland Christian Home:

“Our Mother, Elise Arthur, identified one thing she feared most in life and that was to die alone. It is gut-wrenching to know that on April 28, 2020 she did die alone with no one to hold her hand or provide comforting words while she fought for her life.

Our mother, grandmother, aunt and friend to so many. She was taken from us before her time. It is beyond unsettling to lose someone under these circumstances. It is a feeling of pure agony that we will live with us forever.”



Elsie Arthur

She had the following comments about the government’s proposed immunity legislation:

“If this bill is passed, then those responsible will not be held accountable. If you pass this bill then you are allowing for someone else’s grandmother, grandfather, mother or father to die this way too. We need action and we need change and we need to keep our elders safe. Picture your own loved one in this same situation and ask yourself, do you want to be the one that passes Bill 218? Please, I beg of you to protect our elders and keep them safe.”

Vivian Davidson lost her mother Bianca Rossetto on April 9, 2020:

“I am Vivian, the eldest daughter and best friend of the late Bianca Rossetto. My Mamma resided at Lundy Manor in Niagara Falls for approximately 2 1/2 years. My Mamma passed away on April 9, 2020 due to complications from Covid 19 which she contracted at her home which we thought was going to be the best place for her to spend her “golden years”. She passed away in the hospital all alone, without me or anyone else there with her.

We lost the matriarch of our family on April 9. We lost our Nonna on

April 9. I lost my best friend on April 9. Life is not the same. I try to carry on without Mamma but I feel dead inside. Not only did Lundy Manor take Mamma away from me, they also took me away from me.”



Bianca Rossetto

She begs the government not to pass the immunity legislation:

“On behalf of my family, I beg you not to pass Bill 218. PLEASE HOLD THOSE ACCOUNTABLE ACCOUNTABLE !!!!”

Don Tierney lost his wife Betty Tierney:

“I am the widower of Betty Jane Tierney, a 78 year old woman and a former fifteen year resident of Orchard Villa LTC in Pickering. My wife died in the Covid Ward at the Ajax-Pickering Hospital on May 5th, 2020.

I lost the most precious person in my life. We were looking forward to and would have celebrated our 48th wedding anniversary this past July 1st.”



Betty Tierney

He had the following comments on the immunity legislation:

“If you pass this Bill, you are freeing Orchard Villa from any accountability for the people who died there and you are sending the message that it is okay to flaunt the rules because you can get away with it. Is that the message you wish to send? I pray it isn't.

On behalf of all those who died, their families, my wife, our three daughters and nine grandchildren, please do the right thing, Reject this Bill and allow justice to take place.”

Richard Young described his family's loss as follows:

“I am the son of Myra Young, a resident of Lundy Manor, she died on April 11, 2020 due to complication of COVID 19. My mother and I had a wonderful relationship and my wife and our sons and their wives had a wonderful relationship with her. Every week my mother and I would go for breakfast and catch up and anyone who wasn't working would join us. My mother had the joy of knowing one of her great-grandchildren, but did not have the privilege to meet her two newest great grandchildren that our son's and their wives have had since her death.

She died alone, with no one around her (no family). How could you allow people not to be accountable for their negligent which caused death? This is such a disrespect to the individuals who have died and to their families. The only thing large companies (money oriented) will fix problems and follow rules is to punish them and money is the only thing they care about. Financial punishment is



something they will take note of what other resources do families have to make them accountable.”



Myra Young

Richard Young had the following to say about the Conservative Party’s immunity legislation:

“Bill 218 is a way of sweeping this under the carpet and letting down the people that died and their families and letting those responsible off the hook.

I am angry, I am hurt. Do not let my mother and us down. Do the right thing and do not pass Bill 218!!!”

If you require further information or have questions you may contact Michael Reid ([mreid@willdavidson.ca](mailto:mreid@willdavidson.ca)) at 905-337-9748 or Gary Will ([gwill@willdavidson.ca](mailto:gwill@willdavidson.ca)) at 905-815-5802.